

name and contact information of DLA's FOIA Officer and Public Liaison; and information on how a requester can obtain the status of a request. Additionally, each FOIA Requester Service Center Web site will have links to DLA's Headquarters FOIA/Privacy Web site reading room.

(2) [Reserved]

(c) *Creating a Record.* (1) There is no obligation to create nor compile a record to satisfy an FOIA request. A DLA activity, however, may compile a new record when doing so would result in a more useful response to the requester or be less burdensome to the activity provided the requester does not object. The cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is equal to or less than the fee which would be charged for providing the existing record. Fee assessments shall be in accordance with part 286, subpart F, of this title.

(2) A record must exist and be in the possession and control of DLA at the time the search begins to be considered subject to this part and the FOIA.

(3) When processing FOIA requests for electronic data, if DLA's Component has the capability to respond to the request, and the effort is reasonable and would be a business as usual approach, then the request should be processed. However, the request need not be processed where the capability to respond does not exist without a significant expenditure of resources, thus not being a normal business as usual approach. For example: Processing a request that would cause a significant interference with the operation of DLA's Component's automated system or require a significant amount of programming effort.

(d) *Consultations and Referrals.* The rules published in part 32 CFR part 286, subpart A, §§286.4(i) and 286.22(e), Policy, apply to this rule.

(e) *Forms.* This part authorizes the use of forms developed by DoD and DLA for the express use of the FOIA Program. Refer to www.dla.mil for a list of all forms prescribed by this part.

Subpart B—Exemptions

§ 300.5 General.

Refer to the DoD FOIA Program regulations codified at 32 CFR part 286, subpart C, Exemptions.

Subpart C—FOIA Request Processing

§ 300.6 General.

DLA adopts and supplements the DoD FOIA Program regulations codified at 32 CFR part 286, subpart E, Release and Processing Procedures.

(a) *Requests from the public.* (1) Individuals seeking DLA information should address their FOIA requests to one of the FOIA Requester Service Center addresses listed in Appendix A of this part.

(2) When personally identifying information in a record is requested by the subject of the record or the subject's representative, and the information is contained within a Privacy Act system of records, the request will be processed under both the FOIA and the Privacy Act. Due to the dual nature of the processing, the FOIA time limits will be used. DLA Components must comply with the provisions of 32 CFR 310.17(c) to confirm the identity of the requester.

(b) [Reserved]

§ 300.7 FOIA request processing procedures.

(a) *Receipt and Control.* Requests received after 5:00 p.m. EST will be considered received the following business day. Upon receipt of a request for records, the FOIA Officer must:

(1) Open a file in DLA's specified control system designed to ensure accountability and compliance with the FOIA. The control system will include the data elements needed to compile the statistics required in the annual Department of Justice FOIA report or other reports required by another authority. Each request shall automatically be assigned a unique tracking number.

(2) Screen the request for defects in the description, the requester category, the fee declaration, and full postal address. The FOIA Officer will notify the

requester of any such defects and provide assistance to help remedy the defects. The FOIA Officer will place the request on-hold until the request is perfected. When a DLA FOIA Requester Service Center receives a request for records that clearly belong to an agency outside of DoD, the requester shall be told these are not agency records and, if possible, provide the name of the agency that may hold the records. No referral of the request is made outside of DoD.

(3) Once a request is perfected, DLA may make one request for additional information unrelated to fees and toll the 20 working-day period while awaiting the information. Tolling the 20 working-day period is not limited for fee related issues.

(4) DLA will provide the requester with the FOIA tracking number and the track in which the FOIA was placed (see § 300.7(b)). Each DLA FOIA Requester Service Center has a telephone line to inform the requester of the status of their request (see Appendix A of this part).

(5) DLA uses the date-of-search cut-off (this cut-off is the day before the search begins) to ensure that as many records as possible will be captured by the agency's search. A FOIA request may not be on-going or open-ended in nature. DLA Components are responsible for providing records in possession and control of DLA at the time the search for records begins. DLA Components are not required to expend DLA funds to establish data links that provide real-time or near-real-time data to a FOIA requester.

(b) *Multi-track Processing.* DLA components shall process requests with all due diligence according to their order of receipt. A DLA component uses three processing tracks by distinguishing between simple, complex, and expedited requests based on the need to search and collect from multiple directorates/locations; the need to search for, collect and appropriately examine a voluminous amount of records; and/or the need to consult with other DLA or DoD Components having a substantial interest in the releasability of the record. Requesters are notified in the acknowledgement letter of the track the request is placed in. Requests

placed in the simple track will typically be completed within the statutory time limit for responding to requests. Requests placed in the complex track may be narrowed or modified in order to qualify for faster processing within the specified limits of DLA's simple track. Expedited processing must be requested and a requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. Within ten calendar days of its receipt of a request for expedited processing, the proper component shall decide whether to grant expedited processing and shall notify the requester of the decision. If a request for expedited processing is granted, the request shall be given priority and processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously. Refer to the DoD FOIA Handbook for information on multi-track processing (<http://www.dod.mil/pubs/foi/dfoipo/foiaHandbook.html#long>).

(c) *Payments in Arrears.* Where a requester has previously failed to pay a fee charged within 30 calendar days, DLA may require the requester to pay the full amount owed, plus any applicable interest, before beginning to process a new or pending request from the requester (see OMB Fee Guidelines (http://www.dod.gov/pubs/foi/dfoipo/docs/OMBGuidelines_FOIAFees.pdf)). Interest will be at the rate prescribed in 31 U.S.C. 3717, and confirmed with the servicing Financial Operations Office.

(d) *Misdirected Requests.* A misdirected request is a request received by DLA's FOIA Office for records maintained by another DLA or DoD Component. Misdirected requests shall be forwarded promptly, but in any event not later than ten days after the request is first received by any component of the agency that is designated in this regulation to receive requests (see Appendix A of this part). The receiving FOIA Office shall route the request to the proper DLA or DoD FOIA Office and the response time will commence on the date that the request is received by the proper FOIA Office, but not later

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than ten working days after the request is first received by any DLA or DoD FOIA Office. Misdirected FOIA requests are not forwarded outside of DoD.

§ 300.8 Initial determinations.

(a) The initial determination is whether to make a record available in response to a FOIA request. A full release may be made by an official knowledgeable of the record, with authority to determine that no harm would come from release. Adverse determinations (refer to § 300.3(b)) must be made by the designated Initial Denial Authority (IDA) except for determinations made regarding the requester category and requests for fee waivers or expedited processing. By this regulation, the Director, DLA, delegates to Heads of DLA Components (see § 300.3(h)) the designation of IDA. The designation of IDA may be further delegated by the Heads of DLA Components to their Deputies. The IDA shall review all recommendations for withholding information and whether the criteria for withholding under one or more FOIA exemptions are met. DLA has IDAs throughout the agency; and each IDA will make the determination for records within their area of functional responsibility. If a request involves records from more than one functional area, consultation will be done with all responsible IDAs but will be signed by the IDA assigned the primary responsibility for processing the request.

(b) The FOIA requires that any reasonably segregable portion of a record must be released after appropriate application of the Act's nine exemptions. Segregation is not reasonable when it would produce an essentially meaningless set of words and phrases, or even sentences which taken separately or together have minimal or no information content.

(c) If information is withheld in whole or part, DLA will provide in a response letter the exemption under which the withholding is made, a description of the type of information redacted, the name and title or position of the IDA and the administrative appeal rights. When information is withheld in full, DLA will provide an esti-

mate of the volume withheld. This estimate should be in number of pages or in some other reasonable form of estimation. When information is withheld in part, DLA will show the redacted amount of information and the exemption under which the redaction is made on the released portion of the record, unless including that indication would harm an interest protected by the exemption under which the redaction is made.

§ 300.9 Appeals.

When an IDA makes an adverse determination (see § 300.3(b)) the requester may appeal that decision in writing to the designated appellate authority (see § 300.3(a)). An appeal must be made in writing to DLA's Appellate Authority and must be postmarked within the appeal time limits of the DoD FOIA Program Regulation at 32 CFR 286.24. The appeal should be accompanied by copies of the initial request and the denial letter.

§ 300.10 Judicial actions.

DLA adopts the DoD FOIA Program regulations codified at 32 CFR part 286, subpart E, Release and Processing Procedures.

Subpart D—Fees and Fee Waivers

§ 300.11 General.

DLA adopts the rules and rates published in 32 CFR part 286, subpart F, Fee Schedule. In addition, DLA considers fees charged by a Federal Records Center to retrieve and re-file records a part of the direct costs charged to requesters.

APPENDIX A TO PART 300—ACCESS TO DLA RECORDS

(a) *General.* (1) The Defense Logistics Agency, established pursuant to authority vested in the Secretary of Defense, is an agency of DoD under the direction, authority, and control of the Assistant Secretary of Defense for Logistics and Materiel Readiness, and is subject to DoD policies, directives, and instructions.

(2) DLA is comprised of several Components and each DLA Component is responsible for maintaining its own records; therefore, FOIA requests should be addressed to the FOIA Requester Service Center that has custody of the record sought. (See paragraph